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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re:

PG&E CORPORATION,

- and -

**PACIFIC GAS AND ELECTRIC
COMPANY,**

Debtors.

- ☐ Affects PG&E Corporation
☐ Affects Pacific Gas and Electric
Company
☒ Affects both Debtors

** All papers shall be filed in the Lead
Case, No. 19-30088 (DM).*

Case No. 19-30088 (DM)

Chapter 11

(Lead Case) (Jointly Administered)

**DEBTORS' STATEMENT OF ISSUES,
DESIGNATION OF ITEMS TO BE INCLUDED
IN THE RECORD ON APPEAL, AND
CERTIFICATION REGARDING
TRANSCRIPTS**

1 NOTICE IS HEREBY GIVEN that PG&E Corporation (“**PG&E Corp.**”) and
2 Pacific Gas and Electric Company (the “**Utility**”), as debtors and debtors in possession (together,
3 “**Debtors**” or “**Appellants**”) in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”),
4 hereby provide, pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure (the
5 “**Bankruptcy Rules**”), the following statement of issues, designation of the items to be included
6 in the record, and certificate regarding transcripts in connection with Appellant’s Notice of Appeal
7 [Docket No. 5156] (the “**Notice of Appeal**”). As set forth in the Notice of Appeal, Appellants
8 appeal from the *Order on Applicability of Inverse Condemnation; Rule 54(b) Certification* entered
9 on December 3, 2019 [Docket No. 4949] (the “**Order**”) and the related *Memorandum Decision on*
10 *Inverse Condemnation* entered on November 27, 2019 [Docket No. 4895] (the “**Memorandum**”).
11 In light of the stay of the underlying estimation proceedings before the District Court, the Debtors
12 intend to seek an order staying the appeal and are filing this statement to preserve their appellate
13 rights.

14 **STATEMENT OF ISSUE ON APPEAL**

15 The Order and Memorandum raise at least the following legal issue:

- 16 1. Did the United States Bankruptcy Court for the Northern District of California err
17 in finding that inverse condemnation applies to the Debtors under California State
18 Law?
- 19 2. Did the United States Bankruptcy Court for the Northern District of California err
20 in finding that inverse condemnation applies to the Debtors notwithstanding the
21 Debtors’ argument that application of inverse condemnation to the Debtors violates
22 the Takings Clause of the Fifth Amendment of the United States Constitution and
23 the Debtors’ substantive due process rights under the United States Constitution?

24 **DESIGNATION OF RECORD ON APPEAL**

25 Appellants hereby designate the following items to be included in the record on appeal,
26 which includes all exhibits and addenda attached thereto and filed therewith and all documents
27 incorporated by reference therein:
28

Item	Filing Date	Docket No. ¹
Motion for the Establishment of Wildfire Claims Estimation Procedures	July 18, 2019	3091
Declaration of Kevin J. Orsini in Support of Debtors' Motion for the Establishment of Wildfire Claims Estimation Procedures	July 18, 2019	3092
Objection of the City and County of San Francisco to Debtors' Motion Pursuant to 11 USC Sections 105(a) and 502(c) for Establishment of Wildfire Claims Estimation Procedures	August 7, 2019	3412
Sonoma Clean Power Authority's Reservation of Rights and Statement Concerning: (a) Ad Hoc Noteholders Motion to Limit Exclusive Period; (b) Ad Hoc Subrogation Group Motion to Limit Exclusive Period; (c) Tort Claimants Committee Motion for Relief from Stay Regarding the Tubbs Fire; (d) Ad Hoc Subrogation Group Motion for Relief from Stay Regarding the Tubbs Fire; (e) Debtors Motion to Establish Wildfire Claims Estimation Procedures	August 7, 2019	3415
Ad Hoc Committee of Senior Unsecured Noteholders' Joinder and Response to the Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a) and 502(c) for the Establishment of Wildfire Claims Estimation Procedures and Response to the Court's Questions Raised at the July 24, 2019 Hearing	August 7, 2019	3418
Ad Hoc Group of Subrogation Claim Holders' Objection to Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a) and 502(c) for the Establishment of Wildfire Claims Estimation Procedures	August 7, 2019	3419
Declaration of Benjamin P. McCallen in Support of Ad Hoc Group of Subrogation Claim Holders' Objection to Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a) and 502(c) for the Establishment of Wildfire Claims Estimation Procedures	August 7, 2019	3419-1
Response of the California State Agencies to Debtors' Motion Pursuant to 11 U.S.C. §§105(a) and 502(c) for the Establishment of Wildfire Claims Estimation Procedures	August 7, 2019	3421
Response of the United States of America to Debtors' Motion Pursuant to 11 U.S.C. 105(a) and 502(c) for the Establishment of Wildfire Claims Estimation Procedures	August 7, 2019	3424

¹ Unless otherwise indicated, all references herein to "Docket No." shall be to the docket maintained in the Chapter 11 Cases.

Item	Filing Date	Docket No. ¹
Objection and Joinder to the Ad Hoc Group of Subrogation Claim Holders' Objection to Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a) and 502(c) for the Establishment of Wildfire Claims Estimation Procedures filed by Interested Party State Farm Mutual Automobile Insurance Company	August 7, 2019	3426
Statement of The Official Committee of Unsecured Creditors in Support of Debtors' Motion for the Establishment of Wildfire Claims Estimation Procedures	August 7, 2019	3429
Statement of Certain PG&E Shareholders in Support of Debtors' Motion for the Establishment of Wildfire Claims Estimation Procedures	August 7, 2019	3430
Opposition of The Official Committee of Tort Claimants to the Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a) and 502(c) for the Establishment of Wildfire Claims Estimation Procedures	August 7, 2019	3431
Declaration of Thomas R. Kreller in Support of the Statement of The Official Committee of Unsecured Creditors in Support of Debtors' Motion for the Establishment of Wildfire Claims Estimation Procedures	August 7, 2019	3434
Declaration of Michael A. Kelly in Support of the Opposition of the Official Committee of Tort Claimants to the Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a) and 502(c) for the Establishment of Wildfire Claims Estimation Procedures	August 7, 2019	3436
Objection To Debtors Motion Pursuant To 11 U.S.C. §§ 105(A) And 502(C) For The Establishment Of Wildfire Claims Estimation Procedures	August 7, 2019	3437
Declaration of Roger K. Pitman, M.D. in Support of the Objection of The Official Committee of Tort Claimants to the Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a) and 502(c) for the Establishment of Wildfire Claims Estimation Procedures	August 7, 2019	3440
Ex Parte Application of The Official Committee of Tort Claimants Pursuant to B.L.R. 9013-1(c) for Entry of an Order Authorizing Oversize Briefing for Opposition to the Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a) and 502(c) for the Establishment of Wildfire Claims Estimation Procedures	August 7, 2019	3443

Item	Filing Date	Docket No. ¹
Declaration of Lauren T. Attard in Support of Ex Parte Application of the Official Committee of Tort Claimants Pursuant to B.L.R. 9013-1(c) for Entry of an Order Authorizing Oversize Briefing for Opposition to the Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a) and 502(c) for the Establishment of Wildfire Claims Estimation Procedures	August 7, 2019	3445
Errata Sheet Regarding Opposition of The Official Committee of Tort Claimants to the Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a) and 502(c) for the Establishment of Wildfire Claims Estimation Procedures	August 7, 2019	3448
Opposition to Debtors' Motion Pursuant to 11 U.S.C 105(a) and 502(c) For the Establishment of Wildfire Claims Estimation Procedures Filed by Creditor SLF Fire Victim Claimants	August 7, 2019	3451
Ex Parte Application for Order Pursuant to L.B.R. 9013-1(c) Authorizing Oversize Briefing for Debtors' Omnibus Reply in Further Support of the Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a) and 502(c) for the Establishment of Wildfire Claims Estimation Procedures	August 9, 2019	3496
Debtors' Omnibus Reply in Support of Motion for the Establishment of Wildfire Claims Estimation Procedures	August 11, 2019	3498
Supplemental Declaration of Kevin J. Orsini in Support of Debtors' Omnibus Reply in Support of Motion for the Establishment of Wildfire Claims Estimation Procedures	August 11, 2019	3499
Order Pursuant to L.B.R. 9013-1(c) Authorizing Oversize Briefing for Debtors' Omnibus Reply in Further Support of the Debtors' Motion Pursuant to 11 U.S.C. §§ 105(a) and 502(c) for the Establishment of Wildfire Claims Estimation Procedures	August 12, 2019	3511
Order Regarding Further Hearings on Estimation Motion and Other Case Scheduling Matters	August 20, 2019	3619
Brief Re: Estimation Process Pursuant to 11 U.S.C. Sections 105(a) and 502(c) for the Establishment of Wildfire Claims Estimation Procedures Filed by Creditor SLF Fire Victim Claimants	August 20, 2019	3631
Statement of the Official Committee of Tort Claimants Regarding August 27, 2019 Status Conference on Estimation	August 23, 2019	3672
Statement of the Debtors in Advance of the August 27, 2019 Status Conference on Estimation	August 25, 2019	3687

Item	Filing Date	Docket No. ¹
Status Conference Statement Filed by Interested Party Ad Hoc Group of Subrogation Claim Holders	August 26, 2019	3690
Joinder in Statement of the Ad Hoc Group of Subrogation Claim Holders Regarding August 27, 2019 Status Conference on Estimation Filed by Interested Party The Baupost Group, LLC	August 26, 2019	3696
Joinder To Statement Of The Official Committee Of Tort Claimants Regarding August 27, 2019 Status Conference On Estimation Filed by Creditors David Herndon et al.	August 26, 2019	3698
Letter to Judge Montali Regarding Inverse Condemnation Briefing	October 22, 2019	4398
Joint Brief/Memorandum in Support of Position of Debtors and the Official Committee of Unsecured Creditors and Supplemental Statement of the PG&E Shareholders Concerning the Applicability of Inverse Condemnation	October 25, 2019	4485
Declaration of Kevin J. Orsini in Support of Joint Brief/Memorandum in Support of Position of Debtors and the Official Committee of Unsecured Creditors and Supplemental Statement of the PG&E Shareholders Concerning the Applicability of Inverse Condemnation	October 25, 2019	4486
Order Establishing Pre-Confirmation Briefing and Hearing Schedule for Certain Legal Issues	October 31, 2019	4540
Memorandum of Points and Authorities in Support of Opposition to Debtors Motion re Inverse Condemnation Filed by Certain Fire Victim Creditors	November 15, 2019	4768
Declaration of Dario De Ghetaldi in Support of Opposition to Debtors Motion re Inverse Condemnation	November 15, 2019	4769
Response Brief of the Official Committee of Tort Claimants Concerning the Applicability of Inverse Condemnation [Dkt. No. 4485]	November 15, 2019	4773
Declaration of David B. Rivkin in Support of Response Brief of the Official Committee of Tort Claimants Concerning the Applicability of Inverse Condemnation	November 15, 2019	4775
Joinder In The Response Brief Of The Official Committee Of Tort Claimants Concerning The Applicability Of Inverse Condemnation Filed by the Ad Hoc Group of Subrogation Claim Holders	November 15, 2019	4780

Item	Filing Date	Docket No.¹
Partial Joinder of the City and County of San Francisco to the Reply Brief of the Official Committee of Tort Claimants Concerning the Applicability of Inverse Condemnation	November 15, 2019	4781
DOCKET TEXT ORDER (no separate order issued:) At the hearing on November 19, 2019, counsel for Debtors, the OCC and the PG&E Shareholders (see Dkt. No. 4485, at fn. 18) should explain why West v. American Tel. & Tel. Co., 311 U.S. 223 (1940), cited several times by the TCC but not at all by any of them, is not dispositive as to how this court MUST rule on the present question presented. Further, they need to identify just what specific markers or indicators (not simply arguments in these and other similar briefs filed in other proceedings) this court should look to in order to predict that the California Supreme Court would reverse the current case law applying inverse condemnation law to IOUs such as Debtors (Dkt. No 4485, at 3:13-14). (Montali, Dennis)	November 17, 2019	N/A
Memorandum Decision on Inverse Condemnation	November 27, 2019	4895
Order on Applicability of Inverse Condemnation; Rule 54(b) Certification	December 3, 2019	4949
Memorandum Regarding Certification for Direct Appeal to Court of Appeals	December 3, 2019	4953
Certification for Direct Appeal to Court of Appeals	December 3, 2019	4954
Amended Memorandum Regarding Certification for Direct Appeal to Court of Appeals	December 3, 2019	4965
Amended Certification for Direct Appeal to Court of Appeals	December 3, 2019	4967
Hearing Transcripts	Filing Date	Docket No.
Transcript of July 24, 2019 Hearing	July 25, 2019	3188
Transcript of August 14, 2019 Hearing	August 15, 2019	3563
Transcript of August 27, 2019 Hearing	August 28, 2019	3738
Transcript of the October 23, 2019 Hearing	October 24, 2019	4467
Transcript of the November 19, 2019 Hearing	November 20, 2019	4819

Appellants reserve the right to designate additional items for inclusion in the record and/or restate issues presented on appeal.

1 **CERTIFICATION REGARDING TRANSCRIPTS**

2 Appellants certify pursuant to Bankruptcy Rule 8009(b)(1) that they are not
3 ordering any transcripts. All transcripts have been prepared, are filed on the docket, and have
4 been designated in the record.

5
6 Dated: December 31, 2019

**CRAVATH, SWAINE & MOORE LLP
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9
10 By: /s/ Kevin J. Orsini
Kevin J. Orsini

11 *Attorneys for Debtors and Debtors in Possession*
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